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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,088	08/22/2001	Eugenio Go Varona	14729	9335

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EXAMINER

PIERCE, JEREMY R

ART UNIT PAPER NUMBER

1771

DATE MAILED: 10/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,088

Applicant(s)

VARONA, EUGENIO GO

Examiner

Jeremy R. Pierce

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. Applicant's Amendment, submitted on September 12, 2003 has been entered. Claims 1 and 15 have been amended. Claim 7 has been cancelled. New claims 19 and 20 have been added. Claims 1-6 and 8-20 are currently pending.

Specification

2. The amendment filed on September 12, 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The addition of "(based on the fibers and binder weight)" in the paragraph beginning at page 3, line 18 is new matter because it was only disclosed originally that the weight of the binder was "(based on the web weight before addition of superabsorbent)" (see page 12, line 24), which is not in scope with the new amendment. Also, the addition of "fibers and binder" in the paragraph beginning at page 12, line 22 is new matter because it was only previously disclosed that the percent weight of superabsorbent was based on the weight of the web (page 13, line 2), and there is no support in the specification that the "web" is equivalent to "fibers and binder."

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-6 and 8-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

With regard to claims 1-6 and 8-18, the independent claims disclose the binder is present in an amount "between 1 and 6 weight percent of the fiber and binder" and that the superabsorbent is present in an amount "between 1 and 80 weight percent of the fiber and binder." Both limitations are based on new matter added to the specification as set forth above in section 2.

With regard to claims 19 and 20, Applicant claims the personal care product comprises "continuous fibers." However, there is no support for "continuous fibers" in the specification. While the Examples in Applicant's specification are directed to spunbonded fibers, such fibers are only one class of continuous fibers. Continuous fibers would define a broader class of materials than spunbonded fibers. Applicant has no support in the specification for such a broader class of fibers.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-6, 8-13, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanzer et al. in view of Onuschak et al. (U.S. Patent No. 6,139,912).

Tanzer et al. disclose a fibrous absorbent material that contains not more than 5 weight percent of binder material and superabsorbent polymer (column 16, lines 28-37). The superabsorbent particles can be arranged in separate discrete pockets (column 18, lines 43-46). The superabsorbent particles may be present in an amount of 40% by weight (column 22, line 4). Tanzer et al. do not disclose the volume of the pockets. Onuschak et al. disclose that when superabsorbent particles are used in absorbent products, they have a tendency to swell and cause gel-blocking, which prevents the passage of additional fluid through the fabric (column 1, lines 37-54). Onuschak et al. also teach that keeping the superabsorbent particles separated from one another helps solve the problem of gel-blocking (column 6, lines 19-23). The size of the pockets in Tanzer et al. would be a result effective variable that would affect the amount and separation of superabsorbent particles within the absorbent product. Smaller pockets would allow for increased separation of superabsorbent particles. It would have been obvious to one having ordinary skill in the art to make the pockets between 0.33 and 10 cubic millimeters and between 0.5 and 5 cubic millimeters in order to help prevent gel-blocking by keeping the superabsorbent material separated as taught by Onuschak et

al., since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Tanzer et al. also do not disclose the permeability of the absorbent product. Tanzer et al. do describe permeability as a result effective variable for the surge management portion of the fabric (column 13, lines 36-41). Adjusting the loft of the web would affect the permeability, which ultimately adjusts the ability of the web to allow liquid to migrate through it. It would have been obvious to one having ordinary skill in the art to construct the material of Tanzer et al. with a permeability of at least 2000 darcys in order to obtain the desired liquid transfer properties for the intended use since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

7. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanzer et al. in view of Onuschak et al. and further in view of Shohji et al. (U.S. Patent No. 5,549,964).

Tanzer et al. do not disclose electret treatment of the web. Shohji et al. teach that absorbent garments may undergo an electret treatment to improve filtering (column 9, lines 60-62). It would be obvious to a person having ordinary skill in the art to provide an electret treatment to the material of Tanzer et al. in order to improve filtering of waste fluid components, as taught by Shohji et al.

8. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanzer et al. in view of Onuschak et al. as applied to claim 1 above and further in view of Melius et al. (U.S. Patent No. 5,601,542).

Tanzer et al. do not disclose the fibers of the absorbent material may be made from the spunbonding process. Melius et al. disclose that containment means for forming pockets capable of holding superabsorbent material may be made from any one of an airlaid or wet laid web of cellulosic fibers, a meltblown web of synthetic polymeric fibers, or a spunbonded web of synthetic polymeric fibers (column 6, lines 5-19). It would have been obvious to a person having ordinary skill in the art at the time of the invention to make the absorbent structure from spunbonded fibers, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416.

Response to Arguments

9. Applicant's arguments with respect to claims 1-6 and 8-20 have been considered but are moot in view of the new ground(s) of rejection.

10. Applicant argues that Tanzer teaches multiple layers and not a single layer. However, Applicant's claim is using open "comprising" language, so the inclusion of additional layers is not precluded by the current claims.

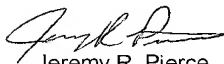
11. Applicant argues there is no suggestion to combine Shohji with Tanzer. However, both references are related to absorbent products, such as diapers. And electret treating is taught by Shohji to improve filtering, which would be useful in the diaper of Tanzer to help separate components of bodily waste that enter into the absorbent product of Tanzer.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (703) 605-4243. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jeremy R. Pierce
Examiner
Art Unit 1771

October 22, 2003


ELIZABETH M. COLE
PRIMARY EXAMINER